

By: Hinojosa, Hegar

S.B. No. 660

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the review and functions of the Texas Water Development
3 Board, including the functions of the board and related entities in
4 connection with the process for establishing and appealing desired
5 future conditions in a groundwater management area.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. SECTION 6.013, Water Code, is amended to read as
8 follows:

9 Sec. 6.013. SUNSET PROVISION. The Texas Water Development
10 Board is subject to review under Chapter 325, Government Code
11 (Texas Sunset Act), but is not abolished under that chapter. The
12 board shall be reviewed during the period in which state agencies
13 abolished in 2023 [~~2011~~] and every 12th year after 2023 [~~2011~~] are
14 reviewed.

15 SECTION 2. Subchapter D, Chapter 6, Water Code, is amended
16 by adding Sections 6.113 and 6.114 to read as follows:

17 Sec. 6.113. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
18 RESOLUTION. (a) The board shall develop and implement a policy to
19 encourage the use of:

20 (1) negotiated rulemaking procedures under Chapter
21 2008, Government Code, for the adoption of board rules; and

22 (2) appropriate alternative dispute resolution
23 procedures under Chapter 2009, Government Code, to assist in the
24 resolution of internal and external disputes under the board's

1 jurisdiction.

2 (b) The board's procedures relating to alternative dispute
3 resolution must conform, to the extent possible, to any model
4 guidelines issued by the State Office of Administrative Hearings
5 for the use of alternative dispute resolution by state agencies.

6 (c) The board shall:

7 (1) coordinate the implementation of the policy
8 adopted under Subsection (a);

9 (2) provide training as needed to implement the
10 procedures for negotiated rulemaking or alternative dispute
11 resolution; and

12 (3) collect data concerning the effectiveness of those
13 procedures.

14 Sec. 6.114. FINANCIAL ASSISTANCE PROGRAMS: DEFAULT,
15 REMEDIES, AND ENFORCEMENT. (a) In this section:

16 (1) "Default" means:

17 (A) default in payment of the principal of or
18 interest on bonds, securities, or other obligations purchased or
19 acquired by the board;

20 (B) a default or breach of any of the terms of a
21 loan, grant, or other financing agreement; or

22 (C) any other failure to perform an obligation,
23 breach of a term of an agreement, or default as provided by any
24 proceeding or agreement evidencing an obligation or agreement of a
25 recipient, beneficiary, or guarantor of financial assistance
26 provided by the board.

27 (2) "Financial assistance program recipient" means a

1 recipient or beneficiary of funds administered by the board under
2 this code, including a borrower, grantee, guarantor, or other
3 beneficiary.

4 (b) In the event of a default and on request by the board,
5 the attorney general shall seek:

6 (1) a writ of mandamus to compel a financial
7 assistance program recipient or the financial assistance program
8 recipient's officers, agents, and employees to cure the default;
9 and

10 (2) any other legal or equitable remedy the board and
11 the attorney general consider necessary and appropriate.

12 (c) A proceeding authorized by this section shall be brought
13 and venue is in a district court in Travis County.

14 (d) In a proceeding under this section, the attorney general
15 may recover reasonable attorney's fees, investigative costs, and
16 court costs incurred on behalf of the state in the proceeding in the
17 same manner as provided by general law for a private litigant.

18 SECTION 3. Section 6.154, Water Code, is amended to read as
19 follows:

20 Sec. 6.154. COMPLAINT FILE. (a) The board shall maintain a
21 system to promptly and efficiently act on complaints [~~file on each~~
22 ~~written complaint~~] filed with the board. The board shall maintain
23 information about parties to the complaint, [~~file must include:~~

- 24 [~~(1) the name of the person who filed the complaint,~~
25 [~~(2) the date the complaint is received by the board,~~
26 [~~(3)] the subject matter of the complaint,~~ [~~+~~
27 [~~(4) the name of each person contacted in relation to~~

1 ~~the complaint,~~

2 ~~[(5)]~~ a summary of the results of the review or
3 investigation of the complaint, and its disposition~~;~~ ~~and~~

4 ~~[(6) an explanation of the reason the file was closed,~~
5 ~~if the agency closed the file without taking action other than to~~
6 ~~investigate the complaint].~~

7 (b) The board shall make information available describing
8 its ~~[provide to the person filing the complaint and to each person~~
9 ~~who is a subject of the complaint a copy of the board's policies~~
10 ~~and]~~ procedures for ~~[relating to]~~ complaint investigation and
11 resolution.

12 SECTION 4. Section 6.155, Water Code, is amended to read as
13 follows:

14 Sec. 6.155. NOTICE OF COMPLAINT. The board~~[,~~ ~~at least~~
15 ~~quarterly until final disposition of the complaint,~~] shall
16 periodically notify the ~~[person filing the]~~ complaint parties ~~[and~~
17 ~~each person who is a subject of the complaint]~~ of the status of the
18 complaint until final disposition ~~[investigation unless the notice~~
19 ~~would jeopardize an undercover investigation].~~

20 SECTION 5. Section 11.1271, Water Code, is amended by
21 amending Subsection (f) and adding Subsection (g) to read as
22 follows:

23 (f) The commission shall adopt rules:

24 (1) establishing criteria and deadlines for
25 submission of water conservation plans, including any required
26 amendments, and for submission of implementation reports; and

27 (2) requiring the uniform water use calculation system

1 developed under Section 16.403 to be used in the water conservation
2 plans required by this section.

3 (g) At a minimum, rules adopted under Subsection (f)(2) must
4 require an entity to report the most detailed level of municipal
5 water use data currently available to the entity. The commission
6 may not adopt a rule that requires an entity to report municipal
7 water use data that is more detailed than the entity's billing
8 system is capable of producing.

9 SECTION 6. Section 16.021, Water Code, is amended by
10 amending Subsections (c), (d), and (e) and adding Subsections (d-1)
11 and (g) to read as follows:

12 (c) The executive administrator shall designate the
13 director of the Texas Natural Resources Information System to serve
14 as the state geographic information officer. The state geographic
15 information officer shall:

16 (1) coordinate the acquisition and use of
17 high-priority imagery and data sets;

18 (2) establish, support, and disseminate authoritative
19 statewide geographic data sets;

20 (3) support geographic data needs of emergency
21 management responders during emergencies;

22 (4) monitor trends in geographic information
23 technology; and

24 (5) support public access to state geographic data and
25 resources ~~[The Texas Geographic Information Council (TGIC) is~~

26 ~~created to provide strategic planning and coordination in the~~
27 ~~acquisition and use of geo-spatial data and related technologies in~~

~~1 the State of Texas. The executive administrator and the executive
2 director of the Department of Information Resources shall designate
3 entities to be members of the TCIC. The chief administrative
4 officer of each member entity shall select one representative to
5 serve on the TCIC. The duties of the TCIC shall include providing
6 guidance to the executive administrator in carrying out the
7 executive administrator's duties under this section and guidance to
8 the Department of Information Resources for development of rules
9 related to statewide geo-spatial data and technology standards].~~

10 (d) Not later than December 1, 2016, and before the end of
11 each successive five-year period after that date, the board shall
12 submit to the governor, lieutenant governor, and speaker of the
13 house of representatives a report that contains recommendations
14 regarding:

15 (1) statewide geographic data acquisition needs and
16 priorities, including updates on progress in maintaining the
17 statewide digital base maps described by Subsection (e)(6);

18 (2) policy initiatives to address the acquisition,
19 use, storage, and sharing of geographic data across the state;

20 (3) funding needs to acquire data, implement
21 technologies, or pursue statewide policy initiatives related to
22 geographic data; and

23 (4) opportunities for new initiatives to improve the
24 efficiency, effectiveness, or accessibility of state government
25 operations through the use of geographic data [~~Member entities of~~

26 ~~the TCIC that are state agencies shall, and member entities that are~~
27 ~~not state agencies may, provide information to the TCIC about their~~

1 ~~investments in geographic information and plans for its use. Not~~
2 ~~later than November 1 of each even-numbered year, the TCIC shall~~
3 ~~prepare and provide to the board, the Department of Information~~
4 ~~Resources, the governor, and the legislature a report that:~~

5 ~~[(1) describes the progress made by each TCIC member~~
6 ~~entity toward achieving geographic information system goals and in~~
7 ~~implementing geographic information systems initiatives; and~~

8 ~~[(2) recommends additional initiatives to improve the~~
9 ~~state's geographic information systems programs].~~

10 (d-1) The board shall consult with stakeholders in
11 preparing the report required by Subsection (d).

12 (e) The [~~Under the guidance of the TCIC, the~~] executive
13 administrator shall:

14 (1) further develop the Texas Natural Resources
15 Information System by promoting and providing for effective
16 acquisition, archiving, documentation, indexing, and dissemination
17 of natural resource and related digital and nondigital data and
18 information;

19 (2) obtain information in response to disagreements
20 regarding names and name spellings for natural and cultural
21 features in the state and provide this information to the Board on
22 Geographic Names of the United States Department of the Interior;

23 (3) make recommendations to the Board on Geographic
24 Names of the United States Department of the Interior for naming any
25 natural or cultural feature subject to the limitations provided by
26 Subsection (f);

27 (4) make recommendations to the Department of

1 Information Resources to adopt and promote standards that
2 facilitate sharing of digital natural resource data and related
3 socioeconomic data among federal, state, and local governments and
4 other interested parties;

5 (5) acquire and disseminate natural resource and
6 related socioeconomic data describing the Texas-Mexico border
7 region; and

8 (6) coordinate, conduct, and facilitate the
9 development, maintenance, and use of mutually compatible statewide
10 digital base maps depicting natural resources and man-made
11 features.

12 (g) The board may establish one or more advisory committees
13 to assist the board or the executive administrator in implementing
14 this section, including by providing information in connection with
15 the preparation of the report required by Subsection (d). In
16 appointing members to an advisory committee, the board shall
17 consider including representatives of:

18 (1) state agencies that are major users of geographic
19 data;

20 (2) federal agencies;

21 (3) local governments; and

22 (4) the Department of Information Resources.

23 SECTION 7. Section 16.023(b), Water Code, is amended to
24 read as follows:

25 (b) The account may be appropriated only to the board to:

26 (1) develop, administer, and implement the strategic
27 mapping program;

1 (2) provide grants to political subdivisions for
2 projects related to the development, use, and dissemination of
3 digital, geospatial information; and

4 (3) administer, implement, and operate other programs
5 of the Texas Natural Resources Information System, including:

6 (A) the operation of a Texas-Mexico border region
7 information center for the purpose of implementing Section
8 16.021(e)(5);

9 (B) the acquisition, storage, and distribution
10 of historical maps, photographs, and paper map products;

11 (C) the maintenance and enhancement of
12 information technology; and

13 (D) the production, storage, and distribution of
14 other digital base maps, as determined by the executive
15 administrator [~~or a state agency that is a member of the Texas~~
16 ~~Geographic Information Council~~].

17 SECTION 8. Section 16.051, Water Code, is amended by adding
18 Subsections (a-1) and (a-2) to read as follows:

19 (a-1) The state water plan must include:

20 (1) an evaluation of the state's progress in meeting
21 future water needs, including an evaluation of the extent to which
22 water management strategies and projects implemented after the
23 adoption of the preceding state water plan have affected that
24 progress; and

25 (2) an analysis of the number of projects included in
26 the preceding state water plan that received financial assistance
27 from the board.

1 (a-2) To assist the board in evaluating the state's progress
2 in meeting future water needs, the board may obtain implementation
3 data from the regional water planning groups.

4 SECTION 9. Sections 16.053(c) and (e), Water Code, are
5 amended to read as follows:

6 (c) No later than 60 days after the designation of the
7 regions under Subsection (b), the board shall designate
8 representatives within each regional water planning area to serve
9 as the initial coordinating body for planning. The initial
10 coordinating body may then designate additional representatives to
11 serve on the regional water planning group. The initial
12 coordinating body shall designate additional representatives if
13 necessary to ensure adequate representation from the interests
14 comprising that region, including the public, counties,
15 municipalities, industries, agricultural interests, environmental
16 interests, small businesses, electric generating utilities, river
17 authorities, water districts, and water utilities. The regional
18 water planning group shall maintain adequate representation from
19 those interests. In addition, the groundwater conservation
20 districts located in each management area, as defined by Section
21 36.001, located in the regional water planning area shall appoint
22 one representative of a groundwater conservation district located
23 in the management area and in the regional water planning area to
24 serve on the regional water planning group. In addition,
25 representatives of the board, the Parks and Wildlife Department,
26 and the Department of Agriculture shall serve as ex officio members
27 of each regional water planning group.

1 (e) Each regional water planning group shall submit to the
2 development board a regional water plan that:

3 (1) is consistent with the guidance principles for the
4 state water plan adopted by the development board under Section
5 16.051(d);

6 (2) provides information based on data provided or
7 approved by the development board in a format consistent with the
8 guidelines provided by the development board under Subsection (d);

9 (2-a) is consistent with the desired future conditions
10 adopted under Section 36.108 for the relevant aquifers located in
11 the regional water planning area as of the date the board most
12 recently adopted a state water plan under Section 16.051 or, at the
13 option of the regional water planning group, established subsequent
14 to the adoption of the most recent plan;

15 (3) identifies:

16 (A) each source of water supply in the regional
17 water planning area, including information supplied by the
18 executive administrator on the amount of managed available
19 groundwater in accordance with the guidelines provided by the
20 development board under Subsections (d) and (f);

21 (B) factors specific to each source of water
22 supply to be considered in determining whether to initiate a
23 drought response;

24 (C) actions to be taken as part of the response;
25 and

26 (D) existing major water infrastructure
27 facilities that may be used for interconnections in the event of an

1 emergency shortage of water;

2 (4) has specific provisions for water management
3 strategies to be used during a drought of record;

4 (5) includes but is not limited to consideration of
5 the following:

6 (A) any existing water or drought planning
7 efforts addressing all or a portion of the region;

8 (B) approved groundwater conservation district
9 management plans and other plans submitted under Section 16.054;

10 (C) all potentially feasible water management
11 strategies, including but not limited to improved conservation,
12 reuse, and management of existing water supplies, conjunctive use,
13 acquisition of available existing water supplies, and development
14 of new water supplies;

15 (D) protection of existing water rights in the
16 region;

17 (E) opportunities for and the benefits of
18 developing regional water supply facilities or providing regional
19 management of water supply facilities;

20 (F) appropriate provision for environmental
21 water needs and for the effect of upstream development on the bays,
22 estuaries, and arms of the Gulf of Mexico and the effect of plans on
23 navigation;

24 (G) provisions in Section 11.085(k)(1) if
25 interbasin transfers are contemplated;

26 (H) voluntary transfer of water within the region
27 using, but not limited to, regional water banks, sales, leases,

1 options, subordination agreements, and financing agreements; and

2 (I) emergency transfer of water under Section
3 11.139, including information on the part of each permit, certified
4 filing, or certificate of adjudication for nonmunicipal use in the
5 region that may be transferred without causing unreasonable damage
6 to the property of the nonmunicipal water rights holder;

7 (6) identifies river and stream segments of unique
8 ecological value and sites of unique value for the construction of
9 reservoirs that the regional water planning group recommends for
10 protection under Section 16.051;

11 (7) assesses the impact of the plan on unique river and
12 stream segments identified in Subdivision (6) if the regional water
13 planning group or the legislature determines that a site of unique
14 ecological value exists; and

15 (8) describes the impact of proposed water projects on
16 water quality.

17 SECTION 10. Section 16.402, Water Code, is amended by
18 amending Subsection (e) and adding Subsection (f) to read as
19 follows:

20 (e) The board and commission jointly shall adopt rules:

21 (1) identifying the minimum requirements and
22 submission deadlines for the annual reports required by Subsection
23 (b); ~~and~~

24 (2) requiring the uniform water use calculation system
25 developed under Section 16.403 to be used in the reports required by
26 Subsection (b); and

27 (3) providing for the enforcement of this section and

1 rules adopted under this section.

2 (f) At a minimum, rules adopted under Subsection (e)(2) must
3 require an entity to report the most detailed level of municipal
4 water use data currently available to the entity. The board and
5 commission may not adopt a rule that requires an entity to report
6 municipal water use data that is more detailed than the entity's
7 billing system is capable of producing.

8 SECTION 11. Subchapter K, Chapter 16, Water Code, is
9 amended by adding Section 16.403 to read as follows:

10 Sec. 16.403. UNIFORM WATER USE CALCULATION SYSTEM. The
11 board and the commission, in consultation with the Water
12 Conservation Advisory Council, shall develop a uniform system for
13 calculating municipal water use in gallons per capita per day to be
14 used by each entity required to submit a water conservation plan to
15 the board or the commission under this code.

16 SECTION 12. Section 17.003, Water Code, is amended by
17 adding Subsections (c), (d), (e), and (f) to read as follows:

18 (c) Water financial assistance bonds that have been
19 authorized but have not been issued are not considered to be state
20 debt payable from the general revenue fund for purposes of Section
21 49-j, Article III, Texas Constitution, until the legislature makes
22 an appropriation from the general revenue fund to the board to pay
23 the debt service on the bonds.

24 (d) In requesting approval for the issuance of bonds under
25 this chapter, the executive administrator shall certify to the bond
26 review board the debt service on the bonds that is reasonably
27 expected to be paid from:

1 (1) the general revenues of the state; and
2 (2) revenue sources other than the general revenues of
3 the state.

4 (e) The bond review board shall determine the portion of the
5 debt service on bonds to be issued by the board under this chapter
6 that is state debt payable from the general revenues of the state,
7 in accordance with the findings made by the board in the resolution
8 authorizing the issuance of the bonds and the certification
9 provided by the executive administrator under Subsection (d).

10 (f) Bonds issued under this chapter that are designed to be
11 paid from the general revenues of the state shall cease to be
12 considered bonds payable from those revenues if:

13 (1) the bonds are backed by insurance or another form
14 of guarantee that ensures payment from a source other than the
15 general revenues of the state; or

16 (2) the board demonstrates to the satisfaction of the
17 bond review board that the bonds no longer require payment from the
18 general revenues of the state and the bond review board so certifies
19 to the Legislative Budget Board.

20 SECTION 13. Section 36.001, Water Code, is amended by
21 adding Subdivision (30) to read as follows:

22 (30) "Desired future condition" means a quantitative
23 description, adopted in accordance with Section 36.108, of the
24 desired condition of the groundwater resources in a management area
25 at one or more specified future times.

26 SECTION 14. Section 36.063, Water Code, is amended to read
27 as follows:

1 Sec. 36.063. NOTICE OF MEETINGS. (a) Except as provided by
2 Subsections (b) and (c), notice [~~Notice~~] of meetings of the board
3 shall be given as set forth in the Open Meetings Act, Chapter 551,
4 Government Code. Neither failure to provide notice of a regular
5 meeting nor an insubstantial defect in notice of any meeting shall
6 affect the validity of any action taken at the meeting.

7 (b) At least 10 days before any meeting or hearing at which
8 the board will consider or take public comments on the desired
9 future condition for an aquifer, including a joint planning meeting
10 under Section 36.108 attended by a district representative, the
11 board must post notice that includes:

12 (1) the proposed desired future condition or
13 conditions and a list of any other agenda items;

14 (2) the date, time, and location of the meeting or
15 hearing;

16 (3) the name, telephone number, and address of the
17 person to whom questions or requests for additional information may
18 be submitted;

19 (4) the names of the other districts in the district's
20 management area; and

21 (5) information on how the public may submit comments.

22 (c) Notice of a meeting or hearing described by Subsection
23 (b) must be posted:

24 (1) in the district office;

25 (2) in the county courthouse of each county located
26 wholly or partly in the district;

27 (3) with the secretary of state; and

1 (4) on the district's Internet website, if the
2 district has an Internet website.

3 (d) The Texas Water Development Board by rule may adopt
4 additional notice provisions for a meeting described by Subsection
5 (b) to ensure reasonable notice to and comment from affected
6 stakeholders such as landowners, permit holders, local officials,
7 and other members of the public.

8 SECTION 15. Sections 36.1071(a) and (e), Water Code, are
9 amended to read as follows:

10 (a) Following notice and hearing, the district shall, in
11 coordination with surface water management entities on a regional
12 basis, develop a comprehensive management plan which addresses the
13 following management goals, as applicable:

- 14 (1) providing the most efficient use of groundwater;
15 (2) controlling and preventing waste of groundwater;
16 (3) controlling and preventing subsidence;
17 (4) addressing conjunctive surface water management
18 issues;
19 (5) addressing natural resource issues;
20 (6) addressing drought conditions;
21 (7) addressing conservation, recharge enhancement,
22 rainwater harvesting, precipitation enhancement, or brush control,
23 where appropriate and cost-effective; and
24 (8) addressing [~~in a quantitative manner~~] the desired
25 future conditions adopted by the district under Section 36.108 [~~of~~
26 ~~the groundwater resources~~].

27 (e) In the management plan described under Subsection (a),

1 the district shall:

2 (1) identify the performance standards and management
3 objectives under which the district will operate to achieve the
4 management goals identified under Subsection (a);

5 (2) specify, in as much detail as possible, the
6 actions, procedures, performance, and avoidance that are or may be
7 necessary to effect the plan, including specifications and proposed
8 rules;

9 (3) include estimates of the following:

10 (A) managed available groundwater in the
11 district based on the desired future condition adopted by rule
12 [~~established~~] under Section 36.108;

13 (B) the amount of groundwater being used within
14 the district on an annual basis;

15 (C) the annual amount of recharge from
16 precipitation, if any, to the groundwater resources within the
17 district;

18 (D) for each aquifer, the annual volume of water
19 that discharges from the aquifer to springs and any surface water
20 bodies, including lakes, streams, and rivers;

21 (E) the annual volume of flow into and out of the
22 district within each aquifer and between aquifers in the district,
23 if a groundwater availability model is available;

24 (F) the projected surface water supply in the
25 district according to the most recently adopted state water plan;
26 and

27 (G) the projected total demand for water in the

1 district according to the most recently adopted state water plan;
2 and

3 (4) consider the water supply needs and water
4 management strategies included in the adopted state water plan.

5 SECTION 16. Subchapter D, Chapter 36, Water Code, is
6 amended by amending Section 36.108 and adding Sections 36.1081,
7 36.1082, 36.1083, 36.1084, and 36.1085 to read as follows:

8 Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In
9 this section:

10 (1) "Development [,"development] board" means the
11 Texas Water Development Board.

12 (2) "District representative" means the presiding
13 officer or the presiding officer's designee for any district
14 located wholly or partly in the management area.

15 (b) If two or more districts are located within the
16 boundaries of the same management area, each district shall prepare
17 a comprehensive management plan as required by Section 36.1071
18 covering that district's respective territory. On completion and
19 approval of the plan as required by Section 36.1072, each district
20 shall forward a copy of the new or revised management plan to the
21 other districts in the management area. The boards of the districts
22 shall consider the plans individually and shall compare them to
23 other management plans then in force in the management area.

24 (c) The district representatives [The presiding officer, or
25 the presiding officer's designee, of each district located in whole
26 or in part in the management area] shall meet at least annually to
27 conduct joint planning with the other districts in the management

1 area and to review the management plans, the ~~[and]~~ accomplishments
2 of ~~[for]~~ the management area, and proposals to adopt new or amend
3 existing desired future conditions. In reviewing the management
4 plans, the districts shall consider:

5 (1) the goals of each management plan and its impact on
6 planning throughout the management area;

7 (2) the effectiveness of the measures established by
8 each management plan for conserving and protecting groundwater and
9 preventing waste, and the effectiveness of these measures in the
10 management area generally;

11 (3) any other matters that the boards consider
12 relevant to the protection and conservation of groundwater and the
13 prevention of waste in the management area; and

14 (4) the degree to which each management plan achieves
15 the desired future conditions established during the joint planning
16 process.

17 (d) Not later than September 1, 2010, and every five years
18 thereafter, the districts shall consider groundwater availability
19 models and other data or information for the management area and
20 shall propose for adoption ~~[establish]~~ desired future conditions
21 for the relevant aquifers within the management area. Before
22 voting on the proposed ~~[In establishing the]~~ desired future
23 conditions of the aquifers under Subsection (d-2) ~~[this section]~~,
24 the districts shall consider:

25 (1) aquifer uses or conditions within the management
26 area, including conditions that differ substantially from one
27 geographic area to another;

1 (2) the water supply needs and water management
2 strategies included in the state water plan;

3 (3) hydrological conditions, including for each
4 aquifer in the management area the total estimated recoverable
5 storage as provided by the executive administrator, and the average
6 annual recharge, inflows, and discharge;

7 (4) other environmental impacts, including impacts on
8 spring flow and other interactions between groundwater and surface
9 water;

10 (5) the impact on subsidence;

11 (6) socioeconomic impacts reasonably expected to
12 occur;

13 (7) the impact on the interests and rights in private
14 property, including ownership and the rights of management area
15 landowners and their lessees and assigns in groundwater as
16 recognized under Section 36.002;

17 (8) whether the desired future conditions are
18 physically possible; and

19 (9) any other information relevant to the specific
20 desired future conditions [~~uses or conditions of an aquifer within~~
21 ~~the management area that differ substantially from one geographic~~
22 ~~area to another~~].

23 (d-1) The districts may establish different desired future
24 conditions for:

25 (1) each aquifer, subdivision of an aquifer, or
26 geologic strata located in whole or in part within the boundaries of
27 the management area; or

1 (2) each geographic area overlying an aquifer in whole
2 or in part or subdivision of an aquifer within the boundaries of the
3 management area.

4 (d-2) [(d-1)] The desired future conditions proposed
5 [established] under Subsection (d) must be approved [adopted] by a
6 two-thirds vote of all the district representatives for
7 distribution to the districts in the management area. A 30-day
8 period for public comments begins on the day the proposed desired
9 future conditions are mailed to the districts. During the public
10 comment period and after posting notice as required by Section
11 36.063, each district shall hold a public hearing on the proposed
12 desired future conditions relevant to that district. During the
13 public comment period, the district shall make available in its
14 office a copy of the proposed desired future conditions and any
15 supporting materials, such as the documentation of factors
16 considered under Subsection (d) and groundwater availability model
17 run results. After the public hearing, the district shall prepare
18 for consideration at the next joint planning meeting a district
19 report that includes comments received, suggested revisions to the
20 proposed desired future conditions, and the basis for the revisions
21 [present at a meeting:]

22 ~~[(1) at which at least two-thirds of the districts~~
23 ~~located in whole or in part in the management area have a voting~~
24 ~~representative in attendance, and~~

25 ~~[(2) for which all districts located in whole or in~~
26 ~~part in the management area provide public notice in accordance~~
27 ~~with Chapter 551, Government Code.~~

1 ~~[(d-2) Each district in the management area shall ensure~~
2 ~~that its management plan contains goals and objectives consistent~~
3 ~~with achieving the desired future conditions of the relevant~~
4 ~~aquifers as adopted during the joint planning process].~~

5 (d-3) After the districts have submitted their district
6 reports under Subsection (d-2), the district representatives shall
7 reconvene to review the reports, consider any district's suggested
8 revisions to the proposed desired future conditions, and finally
9 adopt the desired future conditions for the management area. The
10 desired future conditions must be adopted as a resolution by a
11 two-thirds vote of all the district representatives. The district
12 representatives shall produce a desired future conditions
13 explanatory report for the management area and submit to the
14 development board and each district in the management area proof
15 that notice was posted for the adoption meeting, a copy of the
16 resolution, and a copy of the explanatory report. The report must:

17 (1) identify each desired future condition;

18 (2) provide the policy and technical justifications
19 for each desired future condition;

20 (3) include documentation that the factors under
21 Subsection (d) were considered by the districts and a discussion of
22 how the adopted desired future conditions impact each factor;

23 (4) list other desired future condition options
24 considered and the reasons why those options were not adopted; and

25 (5) discuss reasons why recommendations made by
26 advisory committees and public comments received by the districts
27 were or were not incorporated into the desired future conditions.

1 (d-4) As soon as possible after a district receives the
2 desired future conditions resolution and explanatory report under
3 Subsection (d-3), the district by rule shall adopt the desired
4 future conditions in the resolution and report that apply to the
5 district.

6 (d-5) A district's adoption of a desired future condition
7 may be appealed in district court in the manner provided under
8 Subchapter H for a challenge to a district rule.

9 (e) Except as provided by this section, a [A] joint meeting
10 under this section must be held in accordance with Chapter 551,
11 Government Code. Each district shall comply with Chapter 552,
12 Government Code. Each district in the management area shall post
13 uniform notice [Notice] of the meeting [~~shall be given~~] in
14 accordance with Section 36.063 [~~the requirements for notice of~~
15 ~~district board of directors meetings under that Act~~].

16 Sec. 36.1081. TECHNICAL STAFF AND SUBCOMMITTEES FOR JOINT
17 PLANNING. (a) On request, the commission and the Texas Water
18 Development Board shall make technical staff available to serve in
19 a nonvoting advisory capacity to assist with the development of
20 desired future conditions during the joint planning process under
21 Section 36.108.

22 (b) During the joint planning process under Section 36.108,
23 the district representatives may appoint and convene nonvoting
24 advisory subcommittees who represent social, governmental,
25 environmental, or economic interests to assist in the development
26 of desired future conditions.

27 Sec. 36.1082. PETITION FOR INQUIRY. (a) In this section,

1 "affected person" means, with respect to a management area:

2 (1) an owner of land in the management area;

3 (2) a district in or adjacent to the management area;

4 (3) a regional water planning group with a water
5 management strategy in the management area;

6 (4) a person who holds or is applying for a permit from
7 a district in the management area;

8 (5) a person who has groundwater rights in the
9 management area; or

10 (6) any other person defined as affected by commission
11 rule.

12 (b) An affected person [~~(f) A district or person with a~~
13 ~~legally defined interest in the groundwater within the management~~
14 ~~area]~~ may file a petition with the commission requesting an inquiry
15 for any of the following reasons:

16 (1) a district fails to submit its management plan to
17 the executive administrator;

18 (2) [~~if~~] a district fails [~~or districts refused~~] to
19 participate [~~join~~] in the joint planning process under Section
20 36.108;

21 (3) a district fails to adopt rules;

22 (4) a district fails to adopt the applicable desired
23 future conditions adopted by the management area at a joint
24 meeting;

25 (5) a district fails to update its management plan
26 before the second anniversary of the adoption of desired future
27 conditions by the management area;

1 (6) a district fails to update its rules to implement
2 the applicable desired future conditions before the first
3 anniversary of the date it updated its management plan with the
4 adopted desired future conditions;

5 ~~(7) [or the process failed to result in adequate~~
6 ~~planning, including the establishment of reasonable future desired~~
7 ~~conditions of the aquifers, and the petition provides evidence~~
8 ~~that:~~

9 ~~[(1) a district in the groundwater management area has~~
10 ~~failed to adopt rules;~~

11 ~~[(2)]~~ the rules adopted by a district are not designed
12 to achieve the desired future conditions adopted by ~~[condition of~~
13 ~~the groundwater resources in]~~ the ~~[groundwater]~~ management area
14 ~~[established]~~ during the joint planning process;

15 (8) [(3)] the groundwater in the management area is
16 not adequately protected by the rules adopted by a district; or

17 (9) [(4)] the groundwater in the ~~[groundwater]~~
18 management area is not adequately protected due to the failure of a
19 district to enforce substantial compliance with its rules.

20 (c) [(g)] Not later than the 90th day after the date the
21 petition is filed, the commission shall review the petition and
22 either:

23 (1) dismiss the petition if the commission finds that
24 the evidence is not adequate to show that any of the conditions
25 alleged in the petition exist; or

26 (2) select a review panel as provided in Subsection

27 (d) [(h)].

1 (d) [~~(h)~~] If the petition is not dismissed under Subsection
2 (c) [~~(g)~~], the commission shall appoint a review panel consisting
3 of a chairman and four other members. A director or general manager
4 of a district located outside the [~~groundwater~~] management area
5 that is the subject of the petition may be appointed to the review
6 panel. The commission may not appoint more than two members of the
7 review panel from any one district. The commission also shall
8 appoint a disinterested person to serve as a nonvoting recording
9 secretary for the review panel. The recording secretary may be an
10 employee of the commission. The recording secretary shall record
11 and document the proceedings of the panel.

12 (e) [~~(i)~~] Not later than the 120th day after appointment,
13 the review panel shall review the petition and any evidence
14 relevant to the petition and, in a public meeting, consider and
15 adopt a report to be submitted to the commission. The commission
16 may direct the review panel to conduct public hearings at a location
17 in the [~~groundwater~~] management area to take evidence on the
18 petition. The review panel may attempt to negotiate a settlement or
19 resolve the dispute by any lawful means.

20 (f) [~~(j)~~] In its report, the review panel shall include:

21 (1) a summary of all evidence taken in any hearing on
22 the petition;

23 (2) a list of findings and recommended actions
24 appropriate for the commission to take and the reasons it finds
25 those actions appropriate; and

26 (3) any other information the panel considers
27 appropriate.

1 (g) [~~(k)~~] The review panel shall submit its report to the
2 commission. The commission may take action under Section 36.3011.

3 Sec. 36.1083. MANAGED AVAILABLE GROUNDWATER. The Texas
4 Water Development Board shall require the [~~(l)~~] ~~A person with a~~
5 ~~legally defined interest in the groundwater in the groundwater~~
6 ~~management area, a district in or adjacent to the groundwater~~
7 ~~management area, or a regional water planning group for a region in~~
8 ~~the groundwater management area may file a petition with the~~
9 ~~development board appealing the approval of the desired future~~
10 ~~conditions of the groundwater resources established under this~~
11 ~~section. The petition must provide evidence that the districts did~~
12 ~~not establish a reasonable desired future condition of the~~
13 ~~groundwater resources in the groundwater management area.~~

14 [~~(m)~~] ~~The development board shall review the petition and any~~
15 ~~evidence relevant to the petition. The development board shall~~
16 ~~hold at least one hearing at a central location in the management~~
17 ~~area to take testimony on the petition. The development board may~~
18 ~~delegate responsibility for a hearing to the executive~~
19 ~~administrator or to a person designated by the executive~~
20 ~~administrator. If the development board finds that the conditions~~
21 ~~require revision, the development board shall submit a report to~~
22 ~~the districts that includes a list of findings and recommended~~
23 ~~revisions to the desired future conditions of the groundwater~~
24 ~~resources.~~

25 [~~(n)~~] ~~The districts shall prepare a revised plan in~~
26 ~~accordance with development board recommendations and hold, after~~
27 ~~notice, at least one public hearing at a central location in the~~

1 ~~groundwater management area. After consideration of all public and~~
2 ~~development board comments, the districts shall revise the~~
3 ~~conditions and submit the conditions to the development board for~~
4 ~~review.~~

5 ~~[(e) The]~~ districts in a management area to ~~[shall]~~ submit
6 the desired future conditions resolution adopted ~~[established]~~
7 under Section 36.108, proof that notice was posted for the adoption
8 meeting, and the desired future conditions explanatory report ~~[this~~
9 ~~section]~~ to the executive administrator. The executive
10 administrator shall provide each district and regional water
11 planning group located wholly or partly in the management area with
12 the managed available groundwater in the management area based upon
13 those ~~[the]~~ desired future conditions ~~[condition of the groundwater~~
14 ~~resources established under this section].~~

15 Sec. 36.1084. MANAGEMENT PLAN GOALS AND OBJECTIVES. Each
16 district in the management area shall ensure that its management
17 plan contains goals and objectives consistent with achieving the
18 desired future conditions of the relevant aquifers as adopted
19 during the joint planning process.

20 Sec. 36.1085. JOINT EFFORTS BY DISTRICTS IN A MANAGEMENT
21 AREA. ~~[(p)]~~ Districts located within the same ~~[groundwater]~~
22 management areas or in adjacent management areas may contract to
23 jointly conduct studies or research, or to construct projects,
24 under terms and conditions that the districts consider beneficial.
25 These joint efforts may include studies of groundwater availability
26 and quality, aquifer modeling, and the interaction of groundwater
27 and surface water; educational programs; the purchase and sharing

1 of equipment; and the implementation of projects to make
2 groundwater available, including aquifer recharge, brush control,
3 weather modification, desalination, regionalization, and treatment
4 or conveyance facilities. The districts may contract under their
5 existing authorizations including those of Chapter 791, Government
6 Code, if their contracting authority is not limited by Sections
7 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

8 SECTION 17. Section 36.3011, Water Code, is amended to read
9 as follows:

10 Sec. 36.3011. COMMISSION ACTION REGARDING [~~FAILURE OF~~
11 DISTRICT DUTIES [~~TO CONDUCT JOINT PLANNING~~]. Not later than the
12 45th day after receiving the review panel's report under Section
13 36.1082 [~~36.108~~], the executive director or the commission shall
14 take action to implement any or all of the panel's recommendations.
15 The commission may take any action against a district it considers
16 necessary in accordance with Section 36.303 if the commission finds
17 that:

18 (1) the [~~a~~] district has failed to submit its
19 management plan to the executive administrator;

20 (2) the district has failed to participate in the
21 joint planning process under Section 36.108;

22 (3) the [~~(2) a~~] district has failed to adopt rules;

23 (4) the district has failed to adopt the applicable
24 desired future conditions adopted by the management area at a joint
25 meeting;

26 (5) the district has failed to update its management
27 plan before the second anniversary of the adoption of desired

1 future conditions by the management area;

2 (6) the district has failed to update its rules to
3 implement the applicable desired future conditions before the first
4 anniversary of the date it updated its management plan with the
5 adopted desired future conditions;

6 (7) [~~3~~] the rules adopted by the district are not
7 designed to achieve the desired future conditions adopted by
8 [condition of the groundwater resources in] the [groundwater]
9 management area during the joint planning process; [~~or~~]

10 (8) [~~4~~] the groundwater in the management area is
11 not adequately protected by the rules adopted by the district; i [~~r~~]
12 or

13 (9) the groundwater in the management area is not
14 adequately protected because of the district's failure to enforce
15 substantial compliance with its rules.

16 SECTION 18. As soon as practicable after the effective date
17 of this Act, groundwater conservation districts shall appoint
18 initial representatives to regional water planning groups as
19 required by Section 16.053(c), Water Code, as amended by this Act.

20 SECTION 19. Not later than January 1, 2013:

21 (1) the Texas Commission on Environmental Quality
22 shall adopt rules under Section 11.1271(f), Water Code, as amended
23 by this Act;

24 (2) the Texas Water Development Board and the Texas
25 Commission on Environmental Quality jointly shall adopt rules under
26 Section 16.402(e), Water Code, as amended by this Act; and

27 (3) the Texas Water Development Board and the Texas

1 Commission on Environmental Quality, in consultation with the Water
2 Conservation Advisory Council, shall develop the water use
3 calculation system required by Section 16.403, Water Code, as added
4 by this Act.

5 SECTION 20. The notice provisions of Sections 36.063(b) and
6 (c), Water Code, as added by this Act, apply only to a meeting or
7 hearing of a groundwater conservation district or a joint planning
8 meeting of groundwater conservation districts held on or after the
9 effective date of this Act. A meeting or hearing held before the
10 effective date of this Act is subject to the notice provisions in
11 effect at the time of the meeting or hearing, and those provisions
12 are continued in effect for that purpose.

13 SECTION 21. The requirement that a groundwater conservation
14 district's management plan under Section 36.1071(e), Water Code, as
15 amended by this Act, include the desired future conditions adopted
16 under Section 36.108, Water Code, as amended by this Act, for
17 submission to the executive administrator of the Texas Water
18 Development Board before the plan is considered administratively
19 complete applies only to a district management plan submitted to
20 the executive administrator on or after the effective date of this
21 Act. A management plan submitted before the effective date of this
22 Act is governed by the law in effect on the date the plan was
23 submitted, and that law is continued in effect for that purpose.

24 SECTION 22. The procedures for the adoption and reporting
25 of desired future conditions of groundwater resources in a
26 management area under Section 36.108, Water Code, as amended by
27 this Act, and 36.1083, Water Code, as added by this Act, apply only

1 to the adoption of desired future conditions that occurs on or after
2 the effective date of this Act. Desired future conditions adopted
3 before the effective date of this Act are governed by the law in
4 effect on the date the desired future conditions were adopted, and
5 that law is continued in effect for that purpose.

6 SECTION 23. A petition filed and pending on the effective
7 date of this Act before the Texas Water Development Board to appeal
8 the adoption of desired future conditions by a groundwater
9 management area under former Section 36.108(1), Water Code, shall
10 be handled by the Texas Water Development Board in compliance with
11 Sections 36.108(1), (m), and (n), Water Code, as those sections
12 existed before the effective date of this Act.

13 SECTION 24. This Act takes effect September 1, 2011.